

Attorney Docket No.: DEX-0176
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by detecting CSG level in a sample of patient;

Group II, claim 7, drawn to an antibody to SEQ ID NO:1; and

Group III, claims 8-11, drawn to *in vivo* imaging using an antibody.

The Examiner suggests that the invention listed as Groups I-III do not relate to a single general inventive concept under Rule PCT 13.1 because, under Rule 13.2, they lack the same or corresponding special technical feature. The Examiner suggests that the special technical feature of Group I is using CSG levels in a patient's sample to diagnose cancer, the special technical feature of Group II is the antibody to SEQ ID NO:1 and the special technical feature of Group III is use of the antibody in *in vivo* imaging.

Applicants respectfully traverse this Restriction Requirement.

At the outset, Applicants respectfully disagree with the Examiner's characterization of the special technical feature of claims 1-11. The special technical feature linking claims 1-11 is the recognition that the CSG of SEQ ID NO:1 is a specific marker for gynecologic and testicular cancers. Thus, contrary to the Examiner's suggestion, the claims, which are drawn to a method of diagnosis of gynecologic and testicular cancers based

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upon detection of the CSG, and an antibody and method of using the antibody against the CSG, for imaging and treating gynecologic and testicular cancers clearly share the same special technical feature.

Further, the Examiner's suggestion that "the inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature" directly contradicts the Examination Report issued by the PCT of which this case is the U.S. National Stage.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of the prior art relating to pending claims 1-11 has already been performed in the PCT application. Thus, there is clearly no burden placed upon the Examiner by including all claims in this case, since the full claim set was already searched and examined in the PCT application.

Further, the Examiner has provided no evidence in this Restriction Requirements to support the contention that the Groups have acquired separate status in the art.

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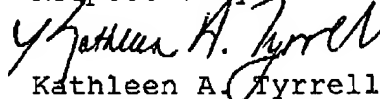
Accordingly, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, it is respectfully requested that this Restriction Requirement be withdrawn.

Accordingly, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect to prosecute Group III, claims 8-11, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


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